

Message Text

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ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 AID-05 CIAE-00 COME-00 FRB-03

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CEA-01 TAR-01 L-03 AGR-05 H-02 PRS-01 /086 W

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FM AMEMBASSY GUATEMALA

TO SECSTATE WASHDC PRIORITY 9111

INFO AMEMBASSY BOGOTA

AMEMBASSY MANAGUA

AMEMBASSY MEXICO

AMEMBASSY PANAMA

AMEMBASSY QUITO

AMEMBASSY SAN JOSE

AMEMBASSY SAN SALVADOR

AMEMBASSY TEGUCIGALPA

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EO 11652: NA

TAGS: ETRD

SUBJ: BANANA TAX FINALLY PASSED

REF: GUATEMALA A183 OF 10/24/75 (NOTAL)

SUMMARY: GUATEMALA FINALLY HAS ACHIEVED A SIGNIFICANT BANANA EXPORT TAX. GOVERNMENT MOVED SLOWLY ALMOST RELUCTANTLY BUT WAS OBLIGED AT LAST TO PUSH A BILL THROUGH CONGRESS. ONLY ONE COMPANY, BANDEGUA OF DEL MONTE, WILL BE SIGNIFICANTLY AFFECTED. IT PROPOSES TO CHALLENGE THE TAX IN COURT, AS BEING IN VIOLATION OF THE 1927 CONTRACT WITH THE GOG WHICH BANDEGUA INHERITED, FREEING IT FROM THE IMPOSITION OF ANYTHING BUT A NOMINAL EXPORT DUTY. BANDEGUA MIGHT HAVE NEGOTIATED WITH THE GOG BUT INSTEAD OPPOSED THE IN-

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EVITABLE IMPOSITION OF THE TAX. THE RESULTING CLASH MAY

WELL SHARPEN THE GROWING FEELING IN GUATEMALA THAT FOREIGN INVESTORS MUST BE BROUGHT UNDER MUCH TIGHTER CONTROL THAN IN THE PAST. END SUMMARY.

1. NOV 19 GUATEMALAN CONGRESS FINALLY PASSED GOG-PROPOSED BILL TO INCREASE TAX ON EXPORT OF BANANAS. FROM PRESENT LOW RATE OF 2 CTS A BUNCH-ROUGHLY 4 CTS A 19-KILO BOX-TAX WILL BE RAISED TO 34.98 CTS A BOX AND PROGRESSIVELY IN COMING YRS UP TO 49.97 CTS EFFECTIVE 1978. BILL NOW GOES TO PRESIDENT FOR SIGNATURE AND IS EXPECTED SHORTLY TO BE PUBLISHED AS LAW. PASSAGE OF BILL HAS BEEN GENERALLY WELCOMED. DAILY GARFICO HAILED IT AS HISTORIC LEGISLATION ENABLING GOVT FOR FIRST TIME TO CHANGE STRUCTURE OF EXPLOITATION OF GUATEMALA'S RESOURCES BY FOREIGN MONOPOLIES.

2. AS REPORTED REPAIR AND PREVIOUS, GOVT BILL HAD SUFFERED NUMBER OF DELAYS, CALLING INTO QUESTION ACTUAL GOG COMMITMENT TO PUSH ENHANCED TAX THROUGH AND SUGGESTING CONSIDERABLE POLITICAL ACTIVITY TO THWART IT BY BANDEGUA, DEL MONTE SUBSIDIARY HERE WHICH WILL BE PRIMARILY AFFECTED BY TAX. BILL FINALLY EMERGED FROM SECOND CONGRESSIONAL COMMITTEE TO WHICH IT HAD BEEN SENT- ON LEGISLATIVE AND CONSTITUTIONAL POINTS. CONSIDERATION PRESUMABLY WAS TO HAVE BEEN GIVEN IN THAT COMMITTEE TO ISSUE OF INCREASED TAXES' VIOLATING EXISTING CONTACT BETWEEN GOG AND BANDEGUA, INHERITED FROM UNITED FRUIT PREDECESSOR. BILL THEN WENT THROUGH THREE READINGS. AT LAST ONE, RIGHTIST MLN SUCCEEDED FOR A WHILE IN BREAKING THE QUORUM, BUT GOVT PARTY (PID) FINALLY ROUNDED UP ENOUGH DEPUTIES FROM OUTSIDE CONGRESSIONAL HALLS. VOTE WAS 30 FOR INCREASED TAX, 7 AGAINST, OUT OF TOTAL MEMBERSHIP IN CONGRESS OF 61. MLN REMAINED STEADFASTLY OPPOSED TO BILL, BUT ERSTWHILE ALLY CAO DEFECTED TO GOVT SIDE. PID, PR AND DCG VOTED SOLIDLY FOR BILL.

3. GOG REASSERTED ITS COMMITMENT TO INCREASE BANANA TAX WHEN IT INCLUDED HEALTHY \$6.3 MILLION IN ESTIMATED REVENUE FROM TAX IN PROPOSED BUDGET FOR 1976, NOW UNDER CONSIDERATION IN CONGRESS. CLAIM MADE BY FINANCE MINISTER THAT UNLESS TAX PASSED, PRIORITY EXPENDITURES WOULD HAVE TO BE CUT BACK IN 1976 OR ALREADY LARGE AMT OF PROPOSED BOND ISSUE WOULD HAVE LIMITED OFFICIAL USE

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TO BE RAISED. (THIS SOMEWHAT ABSURD IN BUDGET OF \$553.7 MILLION EQUIVALENT, OF WHICH \$350.3 MILLION WILL BE COVERED BY DIRECT OR INDIRECT TAX REVENUES.) BANDEGUA ARGUES THAT REVENUE EXPECTED FROM BANANA TAX HAS BEEN GROSSLY OVERESTIMATED, PARTICULARLY WHEN ASSUMED (AS BY GOG) THAT EXPORTS WILL CONTINUE AT PRESENT LEVELS WITH NEW TAX CHARGE.

4. BANDEGUA HAD PREVIOUSLY BEEN ENGAGED BY GOVT IN

TALKS INTENDED TO INDUCE COMPANY TO AGREE TO RENEGOTIATION OF CONTACT TO PERMIT INCREASE IN BANANA TAX. GOG WOULD HAVE PREFERRED NOT TO UNILATERALLY APPLY TAX IN DEFIANCE OF CONTRACT. LIKE MLN AND FOR A WHILE CAO, GOG WISHED TO SEE PRIOR GOVT COMMITMENT RESPECTED. HOWEVER, BANDEGUA REFUSED TO BUDGE FROM ITS DEFENSE OF EXISTING CONTRACT. FOR SOME TIME COMPANY WAS CONFIDENT BILL COULD BE STALLED IN CONGRESS. FINALLY, WHEN THIS DIDN'T HAPPEN, ACCORDING TO MINISTER OF ECONOMY, COMPANY SAID IT WOULD CONSIDER SLIGHT UPWARD REVISION OF EXPORT TAX SPECIFIED IN CONTRACT. HOWEVER, OFFER WAS TOO LITTLE AND TOO LATE; GOG COULD NOT GO BACK TO CONGRESS AND REVISE TARIFF STRUCTURE DOWNWARD.

5. BANDEGUA NEXT MADE OFFER GREATLY TO EXPAND PRODUCTION (AND THEREIN OTHER GOG REVENUE) IF INCREASED TAX BILL WITHDRAWN. BANDEGUA PLAN WOULD INCREASE BANANA OUTPUT FROM 12 TO 18 MILLION BOXES IN FIVE YRS, THROUGH FINANCING AND OTHER ASSISTANCE BY BANDEGUA TO INDEPENDENT PRODUCERS AND NEW COOPERATIVES. INCLUDED IN PLAN WAS TRANSFER TO GOG OF 100 CABALLERIAS OF BANDEGUA LAND AT NOMINAL CHARGE FOR RAISING BASIC GRAINS, PLUS DIVERSIFICATION BY BANDEGUA INTO PINEAPPLES. EMPLOYMENT WOULD OVER TIME BE INCREASED BY 2,500-3,000 JOBS TO A TOTAL OF 15,000 -20,000 SUPPORTED BY FOREGOING ACTIVITIES. GOG HOWEVER WAS IN NO POSITION TO ACCEPT OFFER, AND LAW PUSHED THROUGH.

6. IN CALL ON EMBASSY DAY LAW WAS PASSED, JACK LOEB,

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FM AMEMBASSY GUATEMALA

TO SECSTATE WASHDC PRIORITY 9112

INFO AMEMBASSY BOGOTA
AMEMBASSY MANAGUA
AMEMBASSY MEXICO
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REGIONAL GENERAL MANAGER, DEL MONTE, REPORTED THAT APPLICATION OF NEW TAX WOULD REDUCE BANDEGUA PROFIT TO 2-300,000 A YR- HARDLY WORTH CONTINUED COMPANY INVESTMENT. LOEB SAID BANDEGUA WOULD PAY TAX BUT UNDER PROTEST AND THEN TAKE MATTER TO COURT. THOUGH COMPANY HAS GOOD LEGAL CASE, IS RELUCTANT TO BRING GOG INTO LITIGATION BUT FEELS AT THIS POINT HAS NO OTHER CHOICE. CONFRONTATION BETWEEN BANDEGUA AND GOG WILL THUS BE SHARPENED.

7. ONE INDICATION OF THIS ALREADY HAS APPEARED. IN LATEST OF FULL PAGE ADS IN PRESS THAT BANDEGUA HAS RUN PUSHING ITS CASE, IT REVEALED IN PASSING THAT IT WAS DEDUCTING FROM INCOME TAX PAID GOG AMT IT HAS BEEN PAYING IN PRESENT LOW EXPORT TAX ON BANANAS. GOG HAS NOW COUNTERED WITH PRESS STATEMENT IT WILL BE CLAIMING \$625,000 IN BACK TAXES. BANDEGUA
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HAS TOLD EMBASSY DEDUCTION CLEARLY AUTHORIZED BY LAW. PURSUANT WITH BANDEGUA POLICY TO ARGUE ALL POINTS OF CONTENTION WITH GOVT BY RESORT TO COURTS, ANOTHER CASE MAY NOW ARISE.

8. TROUBLED TIME CLEARLY AHEAD FOR BANDEGUA AND GOVT. MINISTER OF ECONOMY TOLD EMBOFF THAT DESPITE PASSAGE OF TAX BILL, HE HOPED TALKS WITH BANDEGUA CAN CONTINUE AND SOME RESOLUTION ACHIEVED BEFORE NEW TAX IS BROUGHT INTO EFFECT. PLANS TO INVITE LOEB BACK FOR DISCUSSION IN A WEEK OR SO. WHAT TWO SIDES CAN MEANINGFULLY DISCUSS AT THIS POINT NOT CLEAR. MEANWHILE, ACCORDING TO LOEB, BILL MAY BE PRESENTED IN CONGRESS BY DCG DEPUTY ROBERTO CARPIO (ORIGINAL ADVOCATE OF SIGNIFICANT BANANA EXPORT TAX IN 1974) WHICH WOULD RESOLVE CONFLICT BETWEEN NEW EXPORT TAX AND BANDEGUA'S CONTRACT WITH GOVT, BE DECLARING LATTER NULL AND VOID. WHEREAS IN PAST LOEB CONSIDERED THAT PASSAGE OF SUCH LEGISLATION THROUGH GUATEMALAN CONGRESS OUT OF QUESTION, NOW HE'S NOT SO SURE.

9. COMMENT: GOG HAS AT LAST ACHIEVED A MEASURE TO TAX

BANANA EXPORTS, SYMBOL OF FOREIGN "EXPLOITATION OF NATURAL RESOURCES". IT MOVED SLOWLY, ALMOST RELUCTANTLY, SEEKING SOMEHOW IN THE PROCESS TO PROTECT THE CONTRACTUAL, OBLICATIONS MADE ORIGINALLY IN 1924. HOWEVER, THE PRESENT ADMINISTRATION WAS FORCED FORWARD ON THE TAX BILL BY THE EFFORT MADE IN 1974 BY THE THEN OPPOSITION TO ENACT AN INCREASED BANANA TAX. THAT BILL WAS NOT PASSED BUT WOULD PROBABLY HAVE BEEN THIS YR IF THE GOG HAD NOT PROPOSED ITS OWN.

10. THOUGH AWARE THAT TIMES HAD CHANGED AND THAT SPECIAL CONCESSIONS GRANTED FOREIGN COMPANIES IN THE PAST WOULD SURELY BE CHALLENGED, BANDEGUA HAS NOT ADJUSTED ITS BARGAINING POSITION MUCH FROM WHAT MIGHT HAVE BEEN EXPECTED OF ITS PREDECESSOR UNITED FRUIT. IT FAILED TO RECOGNIZE THE INEVITABILITY OF A BANANA IMPOST. RELYING INSTEAD ON SHREWD LOCAL LAWYERS AND A SKILL IN POLITICAL MANEUVERING INHERITED FROM UNITED FRUIT, BANDEGUA HAS ARGUED AND OPPOSED RATHER THAN NEGOTIATED WITH GOVT. THE RESULT IS THE COLLISION COURSE ON WHICH THIS LARGE US ENTERPRISE NOW SEEMS COMMITTED, THAT MAY LIMITED OFFICIAL USE

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LEAD TO CLASHES WITH GOVT AND CONTRIBUTE TO CONDEMNATIONS OF THE BEHAVIOR OF TRANSNATIONAL FIRMS AND FURHTER RISING DEMAND FOR STIFF LEGISLATION TO CONTROL FOREIGN INVESTMENT HERE.

11. IN THE BANANA AREA, GUATEMALA ALREADY IS STIFFENING ITS POSITION. PREVIOUSLY LUKEWARM ON JOINING UNION OF BANANA EXPORTING COUNTRIES (UPEB), GOG IS FINALLY MOVING TO RATIFY ITS SIGNATURE TO BASIC CONVENTION. COUNCIL OF STATE HAS AGREED TO GUATEMALA'S ADHERENCE, AND A RATIFICATION BILL SHOULD SHORTLY BE PRESENTED TO CONGRESS. ANDREWS

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